



## SUBSTANCE ABUSE AND ITS LEGAL FRAMEWORK

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### ABSTRACT

*This article specifically talks about the different substance abuse occurring in India. It states the laws established relating to the misuse or overuse of drugs that are harmful in nature and are fatal for human consumption. It also gives detail on the various types of drugs that have been misused by people over the centuries even if it's medically prescribed.*

*It clearly speaks about the laws established relating to the misuse or overuse of harmful drugs that are fatal for human consumption. It also gives details on the various types of drugs that have been misused by people over the centuries although medically prescribed.*

**KEYWORDS** – Substance abuse, mental health, youth, laws, India, history.

### INTRODUCTION

Most of the country's youth feed on the idea to disengage themselves from the burden of being in the real world as it frightens them to step forward on their own, be it financial independence or emotional independence. Drug addictions not only cause mental and physical health problems/issues to an individual but also affect the lives of their family members and friends as they are dependent on them, in some way or the other. These addictions are caused by various factors and some of them are as follows:

1. History of addictions in the family.
2. Stress at work
3. Unemployment
4. Bad influence
5. Mental issues (depression)
6. Peer pressure
7. Fear of being out-casted in society.
8. Divorce
9. Urge to try different drugs

10. Prescribed medicinal drugs

11. Loss of closed ones

12. Relationship issues

13. Tobacco addictions

14. As a coping mechanism

The above points are a few of the known causes that leads to drug addiction or drives human towards substance use, turning into habitation. Further in this research paper, we would study more about the history of drugs in India, the types of drugs currently consumed acts and laws in the Indian legislature established to measure the control of drugs and briefing of the legal bodies governing drug abuse in India.

### REVIEW OF LITERATURE

People in India especially the rural population are not well aware of the meaning of substance abuse, they might think of it as a mere habit but unknown of the consequences attached to it, whereas in the metro cities, people are quite familiar. The Indian population, especially the rural areas, lack knowledge of substance abuse and think of it as another habit, unaware of the related consequences. Whereas, people in



metros are quite informed about the laws on the consumption of drugs and illicit practices of producing, manufacturing and selling of the same.

One must question the whereabouts of the practice of drug misuse and from where they come to know about drug intake which they think can help them get over the pain and stress encountered in day-to-day life.

### **RESEARCH METHODOLOGY**

It is theoretical-based research. The source of collection of data points has majorly been based upon the websites, blogs, research papers, articles, and annual and periodic reports published by the government as well as various non-governmental websites.

### **I. WHAT IS SUBSTANCE ABUSE?**

The illegal/misuse of drugs are prescribed to one for medicinal purposes, or overconsumption of alcohol, tobacco, opium, heroin, solvents such as glues, ethanol, etc., and the legal highs. The consumption of the all-the-above or its misuse has profound issues.

### **II. HISTORY OF DRUGS IN INDIA**

Earlier in the 900s, the people from the Middle East, now popularly known as Arabs made an appearance in India. A few of them were Arab merchants and they introduced a substance called 'opium' to the people of India. The substance opium was used as a pharmaceutical drug to cure diseases and illnesses, the opium was used as a surgical analgesia for pain relief. Later on, people were addicted to opium consumption.

Gradually, the production and cultivation of opium started in the west coast regions of the country. In 1300 as the demand for drug substances increased and people faced difficulties cultivating opium due to the lack of resources, the drug was imported from the equator regions.

Later in the 1720s, when the British made their appearance and registered the drugs, they saw

it as a way of business expansion. Whilst they ruled, opium export started to different countries across the globe. China was the first country to buy a large amount of opium in a year, nearly 14 tons of opium was imported by China in the same year itself. But China banned smoking of the opium in 1729, on the other hand importing of the opium drug was in continuance.

Eventually, in 1920, India also banned the use of opium. One cannot possess more than a 'Tola' i.e., 10 grams of the opium drug. Possession of more than the specified amount was declared illegal.

In 1930, the Colonial Government legislated an act called "Dangerous Drugs Act, 1930" that dealt with the absolute seizure of the consumption of opium drugs. This law was partial in nature because the drug opium was often used for pharmaceutical purposes.

Several cases of Sikh militancy being involved in various cases of smuggling drugs in the year 1980 surfaced. The Amritsar (Punjab, India) to Lahore (Pakistan) train, Samjhauta Express was put to use for the trafficking of illegal drugs from the frontier of Pakistan to India. Soon Amritsar became a cynosure of dealing drugs.

### **III. TYPES OF SUBSTANCE ABUSE**

There are various types of substance abuse across the world. Let us get a brief understanding of the various types of substance abuse which are hazardous in nature.

1. Prescription medicines
2. Alcohol consumption
3. Tobacco
4. Illegal drugs
5. Solvents
6. Legal highs.

i. Prescription medicines- Many medical cases deal with situations where the



patient or people related to the patient misuse the prescribed medicines. Some misuse by replacing particular pills with the higher amount of morphine, opioid, aspirin, etc. People take high doses of medicine in order to get relief and end up getting addicted to those very pills. They also ask the pharmacist to give them a higher dose of drugs than the one prescribed.

ii. Alcohol consumption- the recently released National family health survey for 2019-2021 has found that only 1% of women, aged 15-49, and drink alcohol in the country, compared to 22% of men. Repercussions of alcohol consumption can be severely alarming to human health. It varies from person to person. Even the people who consume alcohol sporadically front towards health issues such as liver damage, cancer, etc. Let's now talk about people who like to booze. People say youth are the future builders of the nation. The majority of the youth are working their way towards success in their interested field. A person working in corporate sectors waits for the weekends to relieve their stress and depends heavily on drinking to overcome that stress by consuming alcohol which releases dopamine in the human body and slows down the nervous system. It hampers their memory, and ability to think and understand the situation and bad headaches that affect their balance between their personal and work life too.

iii. Consumption of alcohol may lead to major accidents like drinking & drive causing accidents, after consuming alcohol an individual's body reacts differently in that situation some are calm as a cucumber and some are furious in rage and that rage can cause harm to the person related to that individual or society at large.

iv. Tobacco – Nicotine is a drug which is found in tobacco, cigarettes, cigars, and beedi, which helps the human brain to ease the feeling of being stressed. Nicotine has risky side effects on the brain. These risks could be of many types such as addiction, and mood disorders; it also harms the part of the brain

that controls attention and learning. Smoker frequently says that smoking helps them concentrate better. But in the long run smoking leads to many changes in their brain. It rots the brain by damaging the ability of learning, think, and function reasonably.

v. Illegal drug- Illegal drugs can be classified into three different categories:

- Depressants-Depressants slow down the central nervous system and messages that go between the brain and body. Examples of depressants are alcohol, opioids, heroin, and GHB.

- Stimulants-These drugs are termed stimulants because of the effect they have on the body after consuming them. It speeds up the messages going between the brain and body. These drugs accelerate the heart rate, energy and appetite. For example caffeine, nicotine, ecstasy, and cocaine.

- Hallucinogens- These drugs are termed hallucinogens as it alters a person's perspective towards the world. It changes how an individual sees, hears, smells, tastes, and feels distinct things that he might be imagining in his own imaginary world and are fictitious in nature. For example LSD, magic mushrooms.

vi. Solvents- intentional ingestion of vaporous chemicals for the sole purpose of getting high or intoxicated is known as solvent abuse. Solvent abuse is the kind of substance abuse which is seen commonly in teenagers and adults as well. The side effects of solvent abuse are dilated pupils, feeling drowsy, dizzy or light-headed, nauseous and loss of appetite. The intake of this abuse also results in irritation, unexplainable excitement, delusions and inattentive behaviour. For example glue, petrol, sanitary pads, body spray, paint, etc.

Legal highs- In India, the drugs that are legally allowed are cannabis in the form of 'bhaang' which is consumed by many people across India in a festival called 'Holi'. Consumption of cannabis in this form is legal but its other forms



like “marijuana”, commonly known as ‘ganja’ and charas (hashish) are illegal in India. There are some drugs used for pharmaceutical purposes such as ephedrine helps in the treatment of asthma and bronchitis but it also has side effects like delusions, gastric problems, paranoia, etc. Another drug which is legal in India and used in medicinal form is ‘Ketamine’. This drug results in hallucinations and has been controlled and strictly prescribed in emergency situations only. The known side effects are nausea, dizziness, memory problems, hypertension etc. Though India has banned the export of the drugs, it is still manufactured in states like Gujarat, Maharashtra and Andhra Pradesh under legal license. Methamphetamine is the last drug on this list of legal highs. Commonly known as ‘meth’ is the father of all the drugs in the market. Also known as crystal Meth, this can be easily manufactured from Ephedrine and pseudoephedrine. Crystal Meth is easily manufactured from Ephedrine and Pseudoephedrine. This drug has established evidence in treating obesity and increasing anxiety levels, and concentration but on the downside leads to hypertension, anorexia, etc. Overdose may lead to heart strokes and even cause death to the person taking it.

#### **IV. LAWS RELATED TO DRUGS IN INDIA**

Indian legislature has established laws that control and prohibits the use of drugs in illicit ways. Although, we see a lot of laws for drug use regulations people are unaware. The classic example of such unawareness would be the stores in rural India selling Opium in the form of Poppy seeds, whose manufacturing, producing, selling and trading are banned in India. As a matter of fact, the disease of drug abuse does not only create barriers that hinder the pursuit to lead a better life, but it also contributes significantly to the slow growth of the country as a whole. There is a solid legal framework in place in order to address the problem of drug abuse, which is based on a very solid foundation.

Indian law affiliated with drugs and their abuses are as follows:-

- Drugs Act, 1940
- Drugs and Cosmetic Act, 1940
- Drugs and Cosmetic Rules, 1945
- Pharmacy Act, 1948
- Drug Control Act, 1950
- Drug and magic remedies Act, 1954
- 1985 Act of Narcotics Drugs and Psychotropic Substance
- Indian Penal Code, 1860
- Criminal Procedure Code, 1973
- Indian Evidence Act, 1872.

##### **1. The Drugs Act, 1940 –**

This Act was formulated in accordance with the direction of the Chopra Committee formed in the year 1930. But the rules relating to drugs and this act were passed in the year 1945. The Drugs Act, of 1940 has sustained many amendments and is now known as “The Drug and Cosmetic Act, of 1945”.

The Drug and Cosmetic Act, of 1945 addresses “the import, manufacture, distribution, and sale of all kinds of drugs (allopathic, Ayurveda, Unani, Siddha, etc.) and cosmetics.” Drugs that are prohibited to import as per this act are

- i. Drugs of substandard quality
- ii. Adulterated drugs
- iii. Misbranded drugs
- iv. Drugs outlawed in originating countries of manufacturing, sale or distribution, except for the purposes of examining, calculations and analysis.

The offences and punishment under this Act are as follows:-

- The import of the above substances that concerns human life and animal life- the



punishment for this offence is three years of imprisonment and 5000 rupees fine for just conviction, 5 years of imprisonment and 1000 rupees fine or both for a subsequent conviction.

- Contradiction of provisions- the punishment for this offence is six months imprisonment or 500 rupees fine or both for the first conviction, 1-year imprisonment or 1000 rupees fine for a subsequent offence.

## 2. The Drugs Control Act, 1950-

This Act regulates the supply and disposal of drugs in addition to guiding the maker or business owner to fix the maximum price for each drug.

## 3. The Narcotics Drugs and Psychotropic Substance Act, 1985-

The Indian Government has always played an important role in international policies as a signatory of the UN single convention in 1961, the UN Convention on psychotropic substances in 1971, and the ICTF Convention on illicit traffic and narcotic drugs and psychotropic substances in 1988 have all been signed by Indian authorities. These conventions direct various forms of control aimed to actualize the objective of limited usage of the aforementioned for pharmaceutical and scientific purposes so as to prevent the abuse of the same. Being in line with the same directive and the obligation towards the UN convention, the structure of control of narcotic drugs is set in motion.

The Narcotic Drugs and Psychotropic Substance Act came into force on 14<sup>th</sup> November 1985 and is applicable to the whole of India and all Indian citizens living outside India, and to all persons on vessels which include aircrafts as well as ships registered in India. The term narcotic drug is defined under section 2(xiv) "Narcotic drug" means coca leaf, cannabis (hemp), opium, and poppy straw and includes all manufactured drugs; The sole purpose of this Act is to lay out uncompromising measures for the control and modulations of narcotic drug and psychotropic substance activities.

NDPS Act views drug offences very seriously and penalties are rigid. It is very important to note that the punishments and fines for different offenses vary depending on the type of drug involved, by which it means the quantity of the drug - whether it is a small quantity, a quantity greater than small, but less than commercial, or a quantity larger than commercial. In each case of drug distribution, there is notification of both small and commercial quantities.

A person who aid or abets another person to commit an offence, commits a criminal conspiracy, attempts to commit an offence, and prepares himself to commit an offence is subject to the same penalty as the person who actually commits that offence. Repeat offences attract one and a half times the penalty and in some cases death penalty. Since the penalties under this Act are very rigid, several procedural safeguards have been provided in the Act.

Section 20B, 27A, 28, 29, and 8(c) of the NDPS Act, 1985 provides laws on punishment for dealing in drugs, financing its trade, and conspiracy.

The possession and consumption of drugs both amount to an offence under the NDPS Act. Section 27 of the NDPS Act states that the consumption of drugs is a punishable offence.

The punishment for offences like the possession of illegal drugs can vary from 6 months of imprisonment to stringent imprisonment for 20 years. In case of subsequent or repeated offences, punishment of the death penalty shall be imposed.

The punishment for the types of drugs in possession or consumption varies from drug to drug.

For example – heroin of 5gm - Maximum of 1-year rigorous imprisonment, a fine up to 10,000 or both. If the drug is in commercial quantity, for instance- heroin of 250gms - Rigorous imprisonment from 10 years (min) to 20 years (max) and a fine from 1 lakh to 2 lakhs. This is applicable for small quantities of the drug.



#### 4. The Indian Penal Code, 1860-

The Indian Penal Code, 1860 lays down the type of offence caused by the abuse of drugs and crimes after the consumption of such abusive drugs and the punishment for the same.

- i. Section 176- in case any person legally bound to give the notice or information to the public servant omits to do so
  - ii. Section 193- punishment for false evidence.
  - iii. Section 201- the omission of a capital offense or giving false information to screen offender is punishable.
  - iv. Section 202- intentional omission to give information of offence by person bound to inform.
  - v. Section 272- adulteration of food or drink intended for sale.
  - vi. Section 273- sale of noxious food or drink
  - vii. Section 274- adulteration of drugs
  - viii. Section 275- sale of adulterated drugs
  - ix. Section 276- sale of drug as a different drug or preparation
  - x. Section 284- negligent conduct with respect to poisonous substance.
  - xi. Section 299 – culpable homicide
  - xii. Section 300- murder
  - xiii. Section 302- punishment for murder
  - xiv. Section 304A- causing death by negligence
  - xv. Section 306- in case of involvement in abetting to suicide of an insane or minor person
  - xvi. Section 307- Attempt to murder
  - xvii. Section 309- Attempt to commit suicide
  - xviii. Section 324- Voluntarily causing hurt by dangerous or means
  - xix. Section 326- Voluntarily using weapons or any other means to cause hurt or grievous hurt.
  - xx. Section 326A- Voluntarily causing grievous hurt by use of acid etc.
  - xxi. Section 326B- Voluntarily making an attempt or actually throwing of acid.
  - xxii. Section 328- Causing hurt by means of poison, etc. With intend to commit an offence.
- #### 5. The Code of criminal procedure, 1973
- i. Section 39- Public entitled to give information on few cases and occurrence.

- ii. Section 40- Duty and responsibility of the public employee or officer recruited in the village to investigate and give report about the same.
- iii. Section 174- Police to take note and report about the case
- iv. Section 175- Power to summon persons.

#### V. MOST FAMOUS CASE LAWS

1. Rhea Chakraborty vs. Union of India and Anr on 7<sup>th</sup> October 2020

Actress Rhea Chakraborty was found involved in financing the illicit trafficking of drugs and dealing in the most talked about Sushant Singh Rajput's suicide case she was aware that the actor Sushant Singh Rajput used drugs and yet harboured him. An ample amount of evidence was found to prove the claim that she was involved in the consumption, financing and trading of illicit drugs.

2. Aryan Khan Drug Case

The 23-year-old, "Aryan Khan", son of Shah Rukh Khan was taken into custody along with him Arbaaz Merchant and Munmun Dhamecha by the Anti-Drugs agency on October 3<sup>rd</sup>. The Act of NDPS provides for such provisions by which any citizen consuming, selling, purchasing or even possessing banned drugs can be held liable and charges will be formed against that person.

It is not unknown that there are various media platforms through which one can influence people by spreading/scattering awareness on the alarming issues a society as whole faces. The Bollywood story itself came up with movies that triggered people to misuse, and exploit drugs every possible way. Madhur Bhandarkar's movie **FASHION** showcases the story of a model on how the struggles and pressure of becoming the best of her profession draw her to drug usage and addiction unstable and how she inhabits the use of drugs.

Next is **UDTA PUNJAB**; where popular actor Shahid Kapoor plays a role of a drug addict and a singer by profession. This movie portrays the bold use of drugs across the state of Punjab and its influence on the fans and their family.



Bollywood is trying its bit to spread knowledge on the blatant use of drugs and how it infects youngsters and others in their close vicinity.

## VI. SUGGESTIONS

India shall enforce more laws for persons addicted to substance abuse or drug abuse. There are no proper laws enforced for the treatment of the above. Treatment is a necessary part for drug-addicted individuals. There are several rehabilitation centres for the treatment of different substance abuse, for example, the movie **SANJU** portrays how the actor got into substance abuse and then went to the rehabilitation centre and tried to quit drug usage and go on a restart.

Moreover, the root cause of today's drug addiction takes us to the social pressure and mental health issues faced by addicts. So, the best approach shall be dealt with first, as those in the beginning of the stage must be introduced to psychological helps through school campaigns, talking more about the problems to better cope with any such scenarios.

Indian legislature should focus on treating these addicts instead of putting them behind bars unless and until the crime they commit is grievous in nature.

## CONCLUSION

As the proverb goes "Prevention is better than cure", in India this is what shall be applied. In order to prevent addiction or to prevent India from becoming a drug hub, we all need to do more than simply ask why people are becoming addicted to drugs or why India is becoming a drug hub. The recognition of the drugs prescribed by doctors is extremely valuable for each and every citizen of the country for their own safety and health. Its awareness can help us refrain or stay away from our ignorance of these rules and in addition to specifying prudent medico-legal viewpoints that have connections with drugs and poisons.

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